

Serial No. 10/810,412
Atty. Docket No. 11333/35

REMARKS

The amendments to claims 1, 8, 9, 19, 24, 26, 37, and 38 were made solely for clarification. The recitation of a "contact area" in each of these claims has been rewritten in accordance with the Examiner's suggestions as set forth in the Office Action.

No new matter has been added. Upon entry of this Response, claims 1, 3-4, 7-9, 11-24, 26-28, and 37-38 remain present and active in the application.

Request for Personal Interview with Examiner

If for any reason either of the outstanding grounds of rejection are not withdrawn in light of the amendment and remarks herein, Applicants respectfully request a personal interview with the Examiner prior to the issuance of any further rejections by the Office, in accordance with MPEP 713.01.

Claim Rejections – 35 U.S.C. § 101

The rejection of claims 1, 3-4, 7-9, 11-24, 26-28, and 37-38 under 35 U.S.C. § 101 as being directed to non-statutory subject matter has been obviated by amendment. As noted above, the recitation of a "contact area" in each of claims 1, 8, 9, 19, 24, 26, 37, and 38 has been rewritten in accordance with the Examiner's suggestions as set forth in the Office Action (pages 2-3, section 1).

Accordingly, Applicants respectfully submit that the claimed invention as presently written is directed to statutory subject matter, and withdrawal of this ground of rejection is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

The rejection of claims 37 and 38 under 35 U.S.C. § 103(a) as being unpatentable over *Conn et al.* (U.S. Patent No. 6,438,414 B1) is respectfully traversed. As further explained below, *Conn et al.* fails to teach or suggest each and every element of independent claims 37 and 38.

As presently written, each of independent claims 37 and 38 recites an "electrode part" that "is configured to contact the skin over an area of between 0.01 and 25 mm²"

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(emphasis added). In the Office Action (pages 3-4, section 3), a portion of *Conn et al.* (viz., col. 18, lines 4-6) is cited for its alleged teachings of "a contact area with the skin of less than 25 mm²" and "a contact area of between about 0.01-25 mm²." However, the cited portion in question does not describe "a biosensor having a contact area of 10 mm²"—as alleged in the Office Action (page 4, emphasis added)—but rather an "electrode area of 0.3 to 1.0 cm²" (emphasis added). Thus, when the units of area used in *Conn et al.* (cm²) are converted to the units of area recited in the claimed invention (mm²), it becomes apparent that the range of area described in *Conn et al.* corresponds to a contact area of between 30 mm² and 100 mm²—which clearly lies outside the range of "0.01 and 25 mm²" recited in each of independent claims 37 and 38.

Accordingly, inasmuch as *Conn et al.* fails to teach or suggest each and every element of independent claims 37 and 38 as presently written, Applicants respectfully submit that the claimed invention is neither anticipated by nor would have been obvious in view of this reference. Therefore, withdrawal of this ground of rejection is respectfully requested.

Allowable Subject Matter

The Examiner's indication that claims 1, 3-4, 7-9, 11-24, and 26-28 contain allowable subject matter and would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 101 is noted with appreciation.

As noted above, each of claims 1, 8, 9, 19, 24, 26, 37, and 38 has been rewritten in accordance with the Examiner's proposed language, thereby obviating the amendment under 35 U.S.C. § 101.

Accordingly, for at least this reason, Applicants respectfully submit that claims 1, 3-4, 7-9, 11-24, and 26-28 are allowable as presently written.

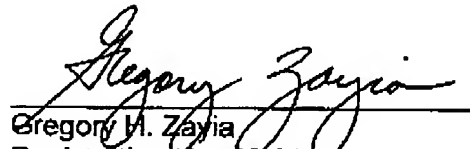
Conclusion

In view of the Amendment and Remarks set forth above, Applicants respectfully submit that the claimed invention is in condition for allowance. Early notification to such effect is earnestly solicited.

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However, if for any reason the Examiner feels that the above Amendment and Remarks do not put all of the pending claims in condition to be allowed, it is respectfully requested that the Examiner contact the undersigned agent directly at (312)-321-4257 in order to arrange a personal interview to discuss this case.

Respectfully submitted,



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